



BHARAT
SARKAR

भारतसरकार/ Government of India
वि॰त॰मंत्रालय / Ministry of Finance
काया,लय/ Office of

प्रधानआयुक्त सीमाशुल्क -(एन एस-1) Pr.
Commissioner of Customs-(NS-I)
Jawaharlal Nehru Custom House (JNCH)
NhavaSheva, Tal: Uran, Dist: Raigad, Maharashtra-
400 707



INDIAN
CUSTOMS

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SCN No. 777(L)/2025-26/JOINT COMMRR. /GR. I&IA/NS-I/CAC/JNCH
F. No. S/10-159/2025-26/Adj./Joint Commr./Gr.I/NS-I/CAC/JNCH
DIN: 20250978NW000081868A

SHOW CAUSE NOTICE UNDER SECTION 124 OF CUSTOMS ACT, 1962

Subject: Show Cause Notice in respect of the goods imported by M/s SMR Infra (IEC No. BTMPS9485H) covered under Bill of Lading No. SGNA51221600 dated 10.02.2025, IGM No. 1123337 dated 12.02.2025, Line No./ Subline No. 340/0-reg;

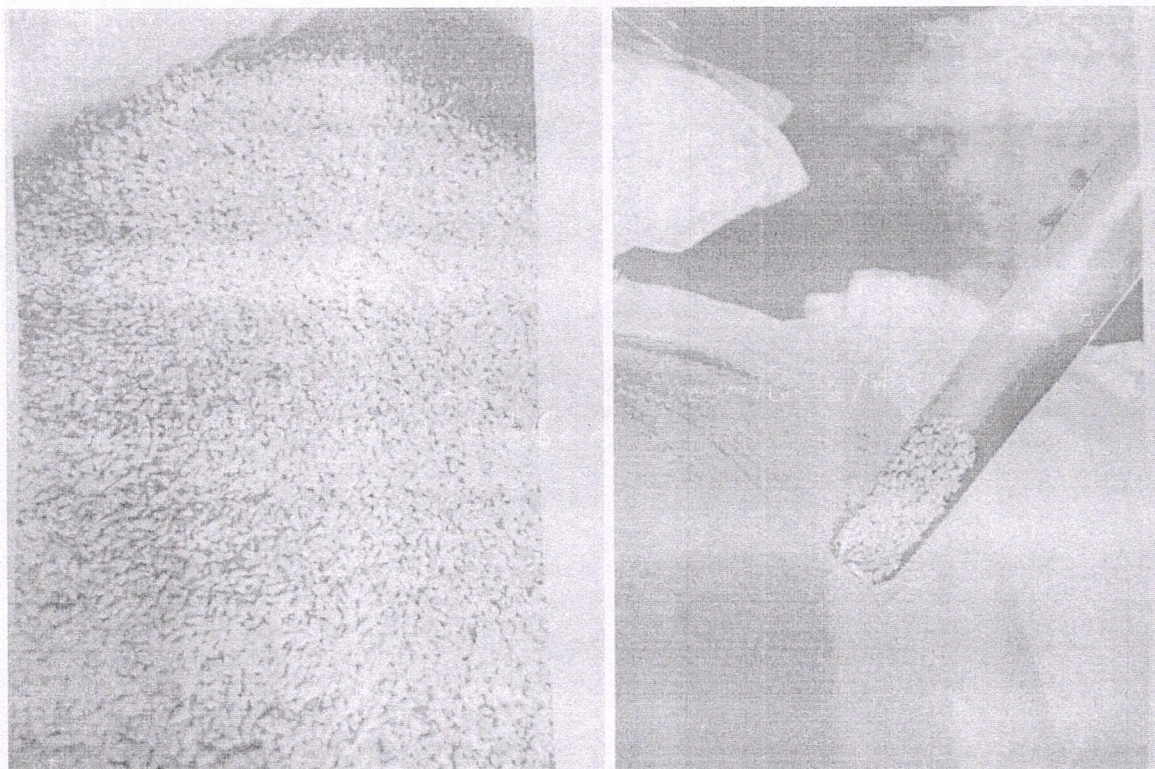
M/s SMR Infra (IEC No. BTMPS9485H), having registered address at 11-1-46/1A, Opposite Medical Hall, Santhosh Nagar, Kandukur, Prakasam, Andhra Pradesh-523105, have imported goods declared as "Agricultural Rejected Nut Pieces Residues and Waste (A Kind Used in Animal Feed) Unfit for Human Consumption" (herein after referred to as "Impugned goods" or "Import Goods"), under CTH 2308 0000 vide Bill of Lading No. SGNA51221600 dated 10.02.2025 (**RUD-1**), IGM No. 1123337 dated 12.02.2025. The declared Value of the Goods is USD 24,300. The details of the consignment are reproduced below.

| Sr No. | Bill of Lading No./Date | Supplier Name | Invoice Number/date | Value (USD) |
|--------|-------------------------|--------------------------------------|-------------------------------|-------------|
| 1 | SGNA51221600/10.02.2025 | Huy Van Trading Service Company Ltd. | 25015/HV/SMR dated 22.01.2025 | 24,300 |

2. Examination of Consignment:

Acting on the specific input, Container No. DFSU4325986 (40 ft) covered under Bill of Lading No. SGNA51221600 dated 10.02.2025, IGM No. 1123337 dated 12.02.2025 imported in the name M/s SMR Infra (IEC- BTMPS9485H) was put on hold vide hold No.329/2024-25 dated 05.03.2025 and examined under Panchnama dated 12.03.2025 (**RUD-2**) drawn at M/s Seabird Marine Services Pvt. Ltd, Sector-1, Dronagiri, Navi Mumbai, Maharastra-400707.

Pictures of the goods found during examination are as below:



3. Samples sent to Indian Council for Agricultural Research (ICAR)- Directorate of Cashew Research (DCR), Puttur Lab and Test Results:

3.1 Subsequently, the samples collected during examination of goods(vide Panchnama dated 12.03.2025 were forwarded to Indian Council for Agricultural Research (ICAR)-Directorate of Cashew Research (DCR), Puttur (Govt. Laboratory).

3.2 **The relevant contents of the Analysis/Test Report (RUD-3) are reproduced as below:**

Physical quality of cashew kernels: -Physical qualities of aforesaid sample of kernels are assessed based on its size, wholesomeness and surface color characteristics. Whole kernels grading is based on number of kernels per unit weight and the surface color characteristics, whereas broken kernels are graded based on size of its fragments and surface color following the standard specification prescribed for the Indian Cashew Kernels for Export, laid down by the Government of India under the Export (Quality Control and Inspection) Act 1963. Following the prescribed methodology, all the samples segregated using the requisite sieves and its size distribution is present in Table 1.

Table 1. Size distribution of cashew kernels and its moist content

| Sr. No. | Sample Code | Moisture content (% d.b.) | Fractions | | | | |
|---------|-------------|---------------------------|-----------|-------|-------|------|------|
| | | | CKP | BB | VSP | SWPL | LWP |
| 1. | DFSU4325986 | 5.98 | 0.0 | 10.07 | 51.76 | 2.42 | 35.6 |

CKP: Cashew Kernel Powder; BB: Baby Bits; VSP: Very Small Pieces; SWP: Small White Pieces and LWP: Large Values in Percentage

- It is inferred that the moisture content of the sample found to be slightly higher than the permissible moisture content at packaging i.e. 5% d.b. indicating that the water activity value in favor of fungi / yeast / microbes. leading to spoilage.
- Values of size distribution of samples indicated that the major fractions (52%) of the samples could be categorized under Very Small Pieces (retained under IS sieve size of 2.36 mm (8 no.) whereas Large White Pieces (36 %) which retained on IS sieve size of 4.75 mm (4 no.) and Baby bits (10%) which retained on IS Sieve 1.70 mm (12 No.).
- Surface color characteristics indicated that these kernels are not ivory white.

But discolored for unknown reasons. (It could be due to improper processing/improper storage/inferior quality of raw cashew nuts processed/ contamination due to unhygienic packaging etc.)

Besides, it is to confirm that the representative samples are '**Cashew kernels**' only based on the sensory characteristics in reference to the taste and flavor.

Microbial analysis for association of any pathogen in cashew kernels:

The isolation of pathogen from broken cashew kernels was carried out through surface sterilization with 1% sodium hypochlorite and the cashew kernels (broken) sterilized samples were transferred to petri-plates containing Potato Dextrose Agar (PDA). The petri-plates were incubated at 25 ± 1 °C in BOD incubator for 7 days and were observed for pathogen growth. Based on the morphological growth characters and microscopic observations the pathogens are identified and furnished in table for information.

Table: 4 – Level of Infestation of Pathogens in Cashew Kernels

| Sr. No. | Identification No. sample | Pathogen/s observed | Remarks |
|----------------|----------------------------------|---|---|
| 1 | DFSU4325986 | <i>Aspergillus</i> spp. and <i>Penicillium</i> spp. | Contaminated with the storage pathogens |

3.3 Details of testing parameters based on analytical report:

- A. The goods are 'Cashew Kernels' based on the sensory characteristics in reference to the taste and flavor.
- B. According to the FSSAI Cashew Standards the goods are unfit for human consumption.

4. Seizure of the Goods:

According to the test reports of product specific government research laboratory, the goods are found to have been tested positive for Cashew Kernels and contaminated with pathogens and hence the impugned goods are found to be mis-declared with an intention to avoid MIP regulations as per DGFT Notification No. 59/2015-2020

dated 21.02.2023 and also found infested with *Aspergillus spp.* & *Penicillium spp.*, thereby making the goods unfit for any form of Consumption.

In view of the above, it appears that the said goods are liable for confiscation under the provisions of section 111 of the Customs Act, 1962. Accordingly Goods were seized vide Seizure Memo No. 22/2025-26 dated 28.05.2025 **(RUD- 4)** and served upon the concerned parties.

5. Statement recorded during investigation:

Statement of Shri Murugula Shabbir Shaik, Proprietor of M/s SMR Infra (Importer) was recorded on 23.06.2025 **(RUD-5)** under Section 108 of the Customs Act 1962, wherein he stated that

- He had got his IEC (BTMPS9485H) in the year 2024 for import purpose only. He decided to import "Agricultural Rejected Nut Pieces Residues and Waste (A kind used in Animal Feed) Unfit for human consumption" and sell them locally. He has two import export code (IEC) on the name of his company SMR Infra. The second IEC is ABVFS0245D. He has imported only one consignment on the second IEC in the month of June, 2024.
- He looks after all the business activities on the name of the company. He is fully responsible for the activities done on the name of M/s SMR Infra.
- He has imported a total of five consignments, out of which, four are on his IEC- BTMPS9485H whereas one on the IEC- ABVFS0245D. The consignment imported on IEC-ABVFS0245D has already been released in June, 2024. Three consignments on the IEC-BTMPS9485H were imported at Chennai which are under investigation by the Customs Authority there whereas one consignment is imported at Nhava Sheva Port under IGM no. 1123337 dated 12.02.2025 which is under investigation by SIIB(I), JNCH.
- They only import residues and wastes used in animal feed.
- He came in contact with supplier through online sources. This is our first import from the said supplier and he doesn't know him personally.
- Payments have been done in advance through two remittances, one of 17000 USD and one of 7300 USD.
- He has seen the Examination Panchanama dated 12.03.2025 and agreed with the findings in his consignment in the Panchanama.
- He has seen the HSN code 08013210 with item description Cashew Kernels Broken in the Customs Tariff Act, 1975. He agreed with it and putting his dated signatures as a token of seeing & agreeing with the same. He was not aware of the HSN code 08013210 earlier.
- He was aware that the samples from his consignment were sent to ICAR, Putter. He himself made the payment for testing.
- On being shown the testing report from ICAR- Directorate of Cashew Research, Puttur, he agreed with the results of testing.
- He was not aware that Cashew Kernels attract Minimum Import

Price as per DGFT Notification No. 59/2015-2020 dated 21.02.2023.

- He accepted the mistakes made by him in the said consignment covered under covered under IGM no. 1123337 dated 12.02.2025 & BL no. SGNA51221600 dated 10.02.2025 and also accepted re-determined value of goods and ready to pay differential duty, fine and penalty or otherwise whatsoever, decided by the department.

6. Further, as per Bill of Lading No. SGNA51221600 dated 10.02.2025, the impugned goods declared as "Agricultural Rejected Nut Pieces Residues and Waste (A Kind Used in Animal Feed) Unfit for Human Consumption" under CTH 2308 0000. Whereas, the Import of goods falling under CTH 2308 0000 is Free as per DGFT Import Policy with an exception that Import of acorns and horse chestnut is restricted. The relevant portion of the Policy is extracted below:

| | | | |
|----------|---|------|---|
| 23080000 | Vegetable materials and vegetable waste, vegetable residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included | Free | Import of acorns and horse chestnut is however, restricted for imports. |
|----------|---|------|---|

However, as per the Customs Tariff Act, 1975, CTH 2308 covers:

"Vegetable materials and vegetable waste, vegetable residues, and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included—provided they are not classified under a more specific heading and are of a kind used in animal feeding. This heading includes vegetable products, vegetable waste, and residues from industrial processing where certain constituents are extracted."

Upon examination of the consignment, the goods were found to be nuts (Broken Cashew Kernels as per the ICAR Test Report) rather than "Vegetable materials and vegetable waste, vegetable residues, and by-products of a kind used in animal feeding." Therefore, based on these findings, the goods should be classified under CTH 08031210 instead of 23080000, as the goods have been incorrectly declared them under CTH 23080000 in the Bill of Lading No. SGNA51221600 dated 10.02.2025

7. ICAR-Directorate of Cashew Research, Puttur which is India's premier institute for cashew research itself specifies that the goods are Broken Cashew Kernels. And according to DGFT Notification No.59/2015-2020 dated 21.02.2023 **(RUD-6)** import of Cashew Kernel, broken (CTH 08013210) is prohibited but however,

- Import is free if CIF value above Rs.680/- per KG

Therefore, as per the above notification, the imported goods are subject to the Minimum Import Price (MIP). However, the values of goods have been declared as \$ 0.9 in commercial Invoice having No. 25015/HV/SMR dated 22.01.2025, which violates DGFT Notification No. 59/2015-2020.

Further, as per the Analysis Report of the ICAR-Directorate of Cashew Research, Puttur, **the goods are infested with Pathogens viz., "Aspergillus spp& and Penicillium spp."**

Table: 4 – Level of Infestation of Pathogens in Cashew Kernels

| Sr. No. | Identification No. sample | Pahtogen/s observed | Remarks |
|---------|---------------------------|--|---|
| 1 | DFSU4325986 | <i>Aspergillus</i> spp. and <i>Penicillium</i> spp. | Contaminated with the storage pathogens |

In view of the above, it is apparent from the Test Report that ***the subject goods are infested with Aspergillus spp. & Penicillium spp. and thereby making the goods unfit for any form of Consumption.***

8. Classification of the goods:

As per the seized goods found during examination, they merit classification under CTH of 08013210 as detailed below;

| Tariff Item | Description of goods | Unit | Rate of duty | |
|-------------|-----------------------|------|--------------|--------------------|
| | | | Standard | Preferential Areas |
| Cashew nuts | | | | |
| 0801 31 00 | In shell | kg | **2.5% | Free |
| 0801 32 | Shelled | | | |
| 0801 32 10 | Cashew kernel, broken | kg | 30% | 20% |
| 0801 32 20 | Cashew kernel, whole | kg | 30% | 20% |
| 0801 32 90 | Other | kg | 30% | 20% |

9. Valuation of the Goods:

The impugned goods are found to be "Broker Cashew Kernels", which is correctly classified under CTH 08013210.

According to DGFT Notification No.59/2015-2020 dated 21.02.2023 import of Cashew Kernel broken (CTH 08013210) is prohibited but however,

i. Import is free if CIF value above Rs.680/- per KG

Therefore, as per the above notification, the imported goods are subject to the Minimum Import Price (MIP), accordingly the value of impugned goods are re-determined, the details are as below;

| S. No | Goods Found (CTH) | Import Price as per DGFT No. 59/2015-2020 dated 21.02.2023 | Total Weight of the goods found during examination | Re-determined Total Assessable Value (AV) |
|-------|-------------------|--|--|---|
| 1 | Broken | Minimum Rs. | 26960 kgs | 1,83,32,800/- |

| | | | | |
|--|---------------------------------|--------------|--|--|
| | Cashew Kernels (08013210) | 680/- per kg | | |
|--|---------------------------------|--------------|--|--|

As the goods are infested with pathogens and also reported to be unfit for human consumption, the goods cannot be released into the domestic market. Hence duty is not being calculated.

10. The relevant legal provisions are as under:

In relation to the aforesaid facts, it is pertinent to quote relevant provisions of Customs Act, 1962 and the importer's violation in respect of the same:

- **Section 2(26)** of Customs Act, 1962: "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer;
- **Section 2 (33) of the Customs Act, 1962:** "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;
- **Section 2(39) of Customs Act, 1962:** "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under Section 111 and Section 113;
- As per **Section 111(d)** "any goods which are imported or attempted to be imported or are brought within the Indian Customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;"
- As per **Section 111(m)** "any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 3[in respect thereof, or in the case of goods under transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54];"
- **Section 112. Penalty for improper importation of goods, etc:**

Any person, -

Who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harboring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, shall be liable, -

(i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is the greater;

- **As per Section 114AA of the Customs Act, 1962**, Penalty for use of false and incorrect material.

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

11. Further, by rendering the impugned goods liable for confiscation under Section 111(d) & 111(m) of the Customs Act, 1962, the Importer appears to have rendered himself liable for penal action under Section 112(a) *ibid*. This is in light of the violation of the DGFT's Minimum Import Price (MIP) requirements as stipulated in Notification No. 59/2015-2020 dated 21.02.2023, which governs the import conditions for specified goods. Non-compliance with this notification constitutes a contravention of the Foreign Trade Policy, thereby attracting the provisions of Section 111(d) and penal consequences under Section 112(a) of the Customs Act, 1962.

12. Conclusions:

12.1 Based on specific input that the goods pertaining to the importer M/s SMR Infra the cargo covered under Bill of Lading No. SGNA51221600 dated 10.02.2025, IGM No. 1123337 dated 12.02.2025 was put on hold for further investigation. The approximate weight of the cargo is 26.96 MTS with the declared Value of Rs. \$ 24,300.

12.2 Samples were drawn and sent to Indian Council for Agricultural Research (ICAR)-Directorate of Cashew Research (DCR), Puttur Lab for testing. Test report received in this regard, highlighted that the goods are the goods are 'Cashew Kernels'. According to the FSSAI Cashew Standards the goods are unfit for human consumption. Physical quality of cashew kernels: Physical quality of aforesaid sample of kernels is assessed based on its size, wholesomeness and surface color characteristics.

12.3 Upon examination of the consignment, the goods were found to be nuts (Broken Cashew Kernels as per the ICAR Test Report) rather than "Vegetable materials and vegetable waste, vegetable residues, and by-products of a kind

used in animal feeding." Therefore, based on these findings, the goods should be classified under CTH 08031210 instead of 23080000, as the goods have been incorrectly declared under CTH 23080000 in the Bill of Lading No. SGNA51221600 dated 10.02.2025.

12.4 It is evident from the lab report that the importer has mis-declared the goods as "Agricultural rejected nut pieces' residues and waste (a kind used in animal feed) unfit for human consumption" and tried to import "Cashew Kernels" which is regulated by minimum import prices and thus becomes restricted for import. Accordingly, the said goods are liable for confiscation under Section 111 (d) of the Customs Act, 1962. Hence the entire cargo was seized under the provisions of Section 110 of the Customs Act, 1962 vide Seizure Memo dated 28.05.2025.

12.5 The Assessable Value of impugned goods is re-determined as Rs. 1,83,32,800/- (Rupees One Crore Eighty-Three Lakhs Thirty-Two Thousand Eight Hundred only) as per MIP Notification No. 59/2015-2020 dated 21.02.2023.

Further, the goods had already been declared Unfit for human

consumption by Importer and he also agreed with the test report, which confirms that the imported goods are Cashew Kernels of various sizes and found infested with pathogens *Aspergillus* spp. and *Penicillium* spp., thereby making them unfit for any consumption. Hence, the import of the impugned goods, found in violation of the Food Safety and Standards Act, 2006 and DGFT's Minimum Import Price (MIP) norms as prescribed in Notification No. 59/2015-2020 dated 21.02.2023.

Consequently, the goods become liable for absolute confiscation under Section 111(d) and (m) of the Customs Act, 1962, and the importer is rendered liable for penal action under Section 112 (a) of the Customs Act, 1962.

13. In view of above, now, the importer M/s SMR Infra (IEC-BTMPS9485H), is hereby called upon to show cause to the Joint Commissioner of Customs, NS-I, having its office located at Jawaharlal Nehru Customs House, Nhav-Sheva, Raigad within thirty days of the receipt of this notice as to why:-

- i) The Assessable Value of impugned goods should not be re-determined as Rs. 1,83,32,800/- (Rupees One Crore Eighty-Three Lakhs Thirty-Two Thousand Eight Hundred only) as per MIP Notification No. 59/2015-2020 dated 21.02.2023.
- ii) The goods should not be classified under CTH 08031210 instead of 23080000, as the goods have been incorrectly declared under CTH 23080000 in the Bill of Lading No. SGNA51221600 dated 10.02.2025.
- iii) Penalty should not be imposed on Importer under the provisions of Section 112 (a) of the Customs Act, 1962 rendering the goods liable for absolute confiscation under 111 (d) and 111 (m) of the Customs Act, 1962.
- iv) Penalty should not be imposed on Importer as per the provisions of Section 114AA of the Customs Act, 1962, for attempting to import impugned goods with false declarations.

14. The Importer, M/s SMR Infra should file their written explanation/reply to the competent authority i.e. Joint Commissioner of Customs, NS-I, JNCH within 30 days of receipt of the Show Cause Notice and they should also indicate if they wish to be heard in person. If the importer fails to submit their written submission or if they fail to attend the personal hearing on the fixed date the case will be decided ex-parte on the basis of the evidence on record, without any further reference to the importer.

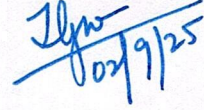
15. In case importer wish to be heard in person, they should state specifically in their written explanation to the **Joint/Addl. Commissioner of Customs, NS-I, JNCH** Jawaharlal Nehru Custom House, Nhava Sheva, Taluka- Uran, District – Raigad, Maharashtra - 400707, for which a day and date will be fixed well in advance.

16. The Relied Upon Documents (RUDs) are listed as 'Annexure-A' to this Show Cause Notice.

17. This Show Cause Notice is issued without prejudice to any other action that may be taken in respect of the said goods / notices and /or against any other firm / person concerned covered or not covered under the provisions of the Customs Act, 1962 and/or any other law for the time being in force in the

Union of India.

18. The department reserves its rights to add, alter, amend, modify or supplement this notice at any time on the basis of any evidence, material facts related to import of goods in question, which may come to the notice of the department after issuance of this notice and prior to the Adjudication of the case.



(Jay G. Waghmare)

Joint Commissioner of Customs
Gr-1, NS-I, JNCH

Encl: Annexure-A (List of Relied Upon Documents (RUDs)) along with RUDs.

To,

M/s SMR Infra (IEC-BTMPS9485H)
11-1-46/1A, Opposite Medical Hall,
Santhosh Nagar, Kandukur , Prakasam,
Andhra Pradesh, 523105.

Copy to: -

1. The Principal Commissioner of Customs, NS-I, JNCH, Nhava-Sheva,
2. The Commissioner of Customs, SIIB(Import), JNCH.
3. DC, SIIB(Import)
4. CHS Section, JNCH (For display on Notice Board.)
5. EDI Section, JNCH (For publish on JNCH Website)
6. Office copy.

ANNEXURE-A

LIST OF RELIED UPON DOCUMENTS (RUDs)

| | |
|-------|--|
| RUD-1 | Bill of Lading SGNA51221600 dated 10.02.2025 |
| RUD-2 | Panchnama dated 12.03.2025 |
| RUD-3 | ICAR Analysis/Test Report dated 02.05.2025 |
| RUD-4 | Seizure Memo dated 28.05.2025 |
| RUD-5 | Statement of Importer dated 23.06.2025 |
| RUD-6 | DGFT Notification No.59/2015-2020 dated 21.02.2023 |